



24 January 2023

Hon. Colleen McMahon
United States District Court Judge
Southern District of New York
Daniel Patrick Moynihan United States District Court
500 Pearl Street
New York, NY 10007

VIA ECF AND FAX

1/25/2023

Denied

Re: Letter Motion to Strike Defendants' Memorandum of Law
in support of Defendants' Motion to Dismiss
Demaree et al. v. Castro et al. (22-cv-8772-CM-SN)

Dear Judge McMahon:

MEMO ENDORSED

Plaintiffs', through their counsel, respectfully request striking Defendants' Memorandum of Law filed January 23, 2023 ("Memo") in support of Defendants' Motion to Dismiss ("Defendants' Motion") (doc. 26). Plaintiffs' representative presents this letter motion based on the Judge's Individual Practices and Procedures ("Practices") (dated August 30, 2022), notably section V(D), unaware if Judge's chambers will take action *sua sponte*.

This letter motion is presented on the grounds of one, Defendants' Memo exceeding the page limit of 25 pages, and two, Defendants' Memo not 'page numbering' several pages of the memo, in favor of roman numerals.

Following Defendants' request and grant for an extension of time to respond to the Amended Complaint (doc. 16), and the denial of Defendants' request to exceed the page limit (doc. 24), Defendants filed their Motion and supporting Memorandum on the January 23, 2023 due date. The Memorandum numbered 27 pages, which included several pages of roman numerals (from "i" to "vii"). As Defendants' did not secure a grant for exceeding the page limit,

the Memo should be stricken in accordance with the Practices, notably **“Failure to comply with any of these guidelines will result in the brief’s being stricken.”**

Whereas Defendants’ Motion to Dismiss may likely be denied in the event the Practices are followed as Defendants’ Motion does not meet the requirements of LR 7.1 (“all motions shall include ... memorandum of law”), denial would be in accordance with the practice of this court. *Sterling v. Deutsche Bank Nat’l Tr. Co.*, 19 Civ. 205 (GBD) (KNF) (S.D.N.Y. Sep. 5, 2019) (“ ... by neglecting to ... properly submit their motion to dismiss by the court-imposed February 8 deadline, Defendants failed to timely file their motion.”). A denial of Defendants’ Motion is not dispositive of this case, but rather moves it to the next phase of litigation.

Respectfully Submitted:

/RDWy/
Robert M. DeWitty
Attorney, Plaintiffs’

CC: Robert McCaffery.